

17236 U.S. PTO  
022404

Patent  
Attorney Docket: 612,406-040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 612,406-016  
First Named Inventor: MICULKA, Christian  
Prior Application Information:  
Serial No. 09/762,977  
Examiner: Lawrence Crane  
Art Unit: 1623

Commissioner for Patents  
Mail Stop Patent Application  
PO Box 1450  
Alexandria, VA 22313-1450

22553 U.S. PTO  
10/787061  
022404

FILING UNDER 37 C.F.R. §1.53(b)

This is a request for filing for a continuation application under 37 C.F.R. §1.53(b) of pending prior application Serial No. 09/762,977, filed on April 19, 2001, which will issue as U.S. Patent No. 6,696,555 on February 24, 2004, by MICULKA et al., entitled:

**3-DEOXY-PENTOPYRANOSYL NUCLEIC ACID, ITS PRODUCTION AND ITS USE**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

APPLICATION ELEMENTS ENCLOSED

- |           |   |
|-----------|---|
| <u>24</u> | Page(s) of Written Description  |
| <u>1</u>  | Page(s) of Claims   |
| <u>1</u>  | Page(s) of Abstract   |
| <u>4</u>  | Sheet(s) of Drawings <input checked="" type="checkbox"/> formal <input type="checkbox"/> informal             |
| <u>0</u>  | Page(s) of <input type="checkbox"/> Declaration or <input type="checkbox"/> Declaration and Power of Attorney |
|           | <input type="checkbox"/> Copy from prior application [37 CFR §1.63(d)]  |
|           | <input type="checkbox"/> Newly executed   |
- 
- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | Assignment papers (cover sheet and documents(s))  |
| <input type="checkbox"/> | An Information Disclosure Statement, PTO 1449, <input type="checkbox"/> with copies of cited items. |
| <input type="checkbox"/> | Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35   |

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450.

EV337189682US  
Express Mail Label No.

February 24, 2004  
Date of Deposit

*Cynthia B. Pacheco*  
Cynthia B. Pacheco

### FEE CALCULATION

☐ Applicant claims small entity status under 37 C.F.R. §1.27.

<b>BASIC FILING FEE:</b>						<b>\$770.00</b>
Total Claims	1	-	20	=	0 x \$18.00	\$0.00
Independent Claims	1	-	3	=	0 x \$86.00	\$0.00
Multiple Dependent Claims	\$280	(if applicable)			<input type="checkbox"/>	\$0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>						<b>\$770.00</b>
Reduction by ½ for Filing by Small Entity.						<input type="checkbox"/> \$0.00
Misc. Filing Fees (Recordation of Assignment)						\$0.00
<b>TOTAL FEES DUE HERewith</b>						<b>\$0.00</b>

### PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- ☐ The certified copy will follow.

### AMENDMENTS

- ☐ Cancel in this application original claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

### RELATE BACK - 35 USC § 120

- ☒ Relate back information included in preliminary amendment or specification.
- ☐ Please amend the specification as follows:  
[ Enter continuing data here ]
- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 C.F.R. §1.53(b)(1)]:
- ☒ the same.
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 C.F.R. §§ 1.33(b) and 1.63(d)(2)]:  
[Name(s) of inventor(s) to be deleted]

**METHOD OF PAYMENT OF FEES**

- ☐ Attached is a check in the amount of \$\_\_\_\_\_.
- ☐ Charge O'Melveny & Myers's Deposit Account No. 50-2862 in the amount of \_\_\_\_\_.
- ☒ Not attached. No filing fee is submitted. [This and the surcharge required by 37 C.F.R. §1.16(e) can be paid subsequently.]

**AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit O'Melveny & Myers's Deposit Account No. 50-2862 for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. 50-2862:

- ☐ 37 CFR § 1.16 (Filing fees and excess claims fees)
- ☐ 37 CFR § 1.17 (Application processing fees)
- ☐ 37 CFR § 1.21 (Assignment recordation fees)

**POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- ☒ The power appears in the original papers in the prior application.
- ☐ The power does not appear in the original papers, but was filed on \_\_\_\_\_ in prior application Serial No. \_\_\_\_\_.
- ☐ A new power has been executed and is attached.

Please send all correspondence to Customer Number 34263:

**34263**  
O'Melveny & Myers LLP  
114 Pacifica, Suite 100  
Irvine, CA 92618-3315  
PATENT TRADEMARK OFFICE (949) 737-2900

Please direct all inquiries to John Kappos, at the above Customer Number.

**MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

- ☐ A petition, fee and response has been filed to extend the term in the pending prior application until \_\_\_\_\_. A copy of the petition for extension of time in the prior application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending prior application. A copy of the conditional petition for extension of time in the prior application is attached.

**ABANDONMENT OF PRIOR APPLICATION**

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: February 24, 2004

By: *Diane K. Wong*  
Diane K. Wong  
Reg. No. 54,550  
Attorneys for Applicants

DKW/cp  
Enclosures

Nanogen Recognomics GmbH  
Name of Assignee

Industrial Park Höchst, Building G830, Frankfurt Am Main, Fed. Rep. Germany D-65926  
Address of Assignee

\_\_\_\_\_  
Title of person authorized to sign on behalf of assignee

Assignment recorded in PTO on September 24, 2002, at Reel 013331, Frame 0971.

IR1:1052692.1